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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	79096002
Applicant	Fashion Box S.P.A.
Applied for Mark	RED SEAL
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Submission	Applicant's Motion to Suspend
Attachments	Request for Suspension of Appeal.pdf(84708 bytes)
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Date	06/21/2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant:	Fashion Box S.P.A.	Examining Attorney: Jennifer Vasquez
Serial No.:	79/096,002	TM Law Office: 113
Filed:	December 16, 2010	Date: June 21, 2016
Mark:	RED SEAL & Design	
Docket:	456/1148	

Trademark Trial and Appeal Board
Commissioner of Trademarks
P.O. Box 1451
Alexandria, Virginia

REQUEST TO SUSPEND DEADLINE TO FILE AN APPEAL BRIEF

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Applicant notes that the Board issued an order on June 20, 2016 extending the deadline for Applicant to file its Appeal Brief until July 11, 2016. For the reasons set out below, Applicant respectfully requests that the deadline for Applicant to file an Appeal Brief be suspended indefinitely.

Request for Suspension of the Deadline to File an Appeal Brief

TBMP § 1213 states that “[P]rior to the issuance of the Board’s decision in an ex parte appeal, proceedings with respect to the appeal may be suspended by the Board upon written request by the applicant showing good cause for the requested suspension.” Applicant submits that good cause for suspending the instant proceedings exists for two reasons-

- 1) In the present case, the cited mark that the Examining Attorney has asserted would allegedly be confused with the mark that is the subject of the instant appeal proceedings is RED SEAL (U.S. Reg. No. 3978673), which registered on June 14, 2011. TBMP § 1213 states that the Board may suspend proceedings in an appeal at the request of an applicant when “[A] registration cited as a reference under (Section 2(d)) against applicant’s mark is due, or will soon be due for an affidavit of use or continued use (or excusable nonuse) under Trademark Act § 8 or Trademark Act § 71).” This same section of the TBMP further states that “[I]f an applicant requests suspension based on the possibility that the cited registration may be cancelled for failure to file an affidavit of continued use, the Board will grant such request if the Board acts on the request after the 5th anniversary of the issue date of the registration.” In the present case, the 5th anniversary of the issue date of the registration was **June 14, 2016**. Accordingly, in light of the fact that the instant request is being made after the 5th anniversary of the cited registration, Applicant submits that the same should be

granted pursuant to TBMP § 1213 in that Applicant has properly demonstrated good cause, and that the Appeal should be suspended.

- 2) Applicant further notes that it is also the owner of a pending application for the mark RED SEAL filed under U.S. Serial No. 79/090,049. This application has been opposed by The Wet Seal, Inc. under Opposition Proceeding No. 91/203,425. The parties are presently involved in ongoing settlement negotiations surrounding the use and registration by Applicant of the mark RED SEAL in word and design form. One of the points being discussed in these settlement discussions is Applicant's ability to use and register the RED SEAL & Design application that is the subject of the instant pending appeal proceedings. One possible basis for settlement that is being discussed between the parties is the potential abandonment of the RED SEAL & Design application filed under Serial No. 79/096,002. Applicant submits that it would be a waste of both its, and more significantly, the Office's resources to proceed with the Appeal for the instant application while there remains a distinct possibility that the same may be abandoned as part of a comprehensive agreement between itself and The Wet Seal, Inc. This basis is further grounds establishing good cause to suspend the appeal.

Respectfully submitted,



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